

March 23, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands – WT Docket No. 03-66 -- ORAL EX PARTE PRESENTATION*

Dear Ms. Dortch:

We are writing pursuant to Section 1.1206(b)(2) of the Commission's Rules to report that on March 22, 2012, Todd D. Gray representing the National EBS Association ("NEBSA"), Edwin N. Lavergne representing the Catholic Television Network ("CTN"), and Paul J. Sinderbrand, representing the Wireless Communications Association International, Inc. ("WCAI") met with Blaise Scinto, John Schauble and Nancy Zaczek of the Wireless Telecommunications Bureau's Broadband Division to explore possible approaches to the licensing of currently unlicensed Educational Broadband Service ("EBS") spectrum.

We stressed that while NEBSA, CTN and WCAI have spent considerable time and made substantial progress in an effort to find licensing solutions that will meet the reasonable objectives of incumbent EBS licensees, potential new EBS licensees, commercial broadband system operators, Native Americans and the public, we were not yet in a position to advance a specific proposal because there remain areas that require further discussion and compromise. We advised that the options under consideration would result in Native Americans having priority access to one EBS channel group on tribal lands, provide for so-called "gaps and scraps" to be incorporated within adjoining Geographic Service Areas ("GSAs"), and the utilization of a series of filing windows during which incumbent EBS licensees and EBS eligible newcomers could apply for the remaining EBS white space.

We advised that NEBSA, CTN and WCAI are contemplating the use of counties as the basic licensing unit going forward, rather than the current EBS paradigm of licensing based on 35 mile radius circles around a reference point. We explained that this approach appears to have several advantages – GSA boundaries may better line up with the preferred service areas of some applicants and it may be easier and less expensive from an engineering perspective to identify available white space and prepare applications. We also addressed the capability of the Universal Licensing System ("ULS") to accommodate counties as a basic licensing area for EBS.

We advised that consistent with the Commission's 2008 treatment of truncated GSAs in the substantial service context and to assure that GSAs are sufficiently large to permit viable operations, we were exploring an approach under which any application for a new station would be required to have a GSA of at least 1924 square miles (but no more than the current 35-mile radius circle GSA size of 3848 square miles). We noted that if counties are the basic licensing

unit, an applicant should be permitted to file for a GSA consisting of multiple counties, and to scale back any county by census tract to comply with the 3848 maximum size. The 1924 square mile limit would not apply to an applicant seeking white space adjacent to its existing co-channel GSAs, since by definition the combined territory would be sufficiently large as to eliminate any concerns about viability.

We discussed how the Commission might process applications for white space filed in any given window. We presented the possibility of using a hybrid “first in time” system. Under this approach, any application for which the proposed GSA is not overlapped by any other proposed GSA would be granted. If there was minor overlap between applications filed in the same window, such that each overlapping applicant can obtain at least a 1924 square mile GSA upon splitting footfalls,¹ all such applications would be granted for those GSAs. In the event there is complete overlap of proposed GSAs or the overlap is such that, upon splitting footfalls, any of the applicants does not achieve a GSA of at least 1924 square miles, the Commission would grant the application of the first to be filed. Then, the Commission would look at the remaining applications and determine if any of them could be granted based on the above licensing criteria. Any applications that could not be granted would be dismissed. We also discussed whether ULS is capable of accommodating such an approach to licensing.

Finally, we discussed the complexities associated with filling-in “gaps and scraps.” We noted that if fill-ins are limited to situations where small areas of white space are completely surrounding by other GSAs that may not include all areas that logically should be incorporated within existing GSAs. We advised that one of the approaches suggested would permit existing licensees to incorporate into their GSAs the remainder of any county in which their GSA already has coverage, so long as no white space in the county is more than 25 miles away from the existing GSA boundary. The attached map, which illustrates the results of such an approach on one channel group, was discussed by the participants in the meeting.

Pursuant to Sections 1.1206(b)(2) and 1.49(f) of the Commission’s Rules, this letter is being filed electronically with the Commission via the Electronic Comment Filing System. Should you have any questions regarding this presentation, please contact the undersigned.

¹ We also advised the staff that we believe it is possible to develop an approach that fairly allocates territory using a modified football-splitting process even when applications are not submitted for circular GSAs.

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Respectfully submitted,

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Attachment

cc: Blaise A. Scinto
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